

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:05cr253

UNITED STATES OF AMERICA

vs.

DIONISIO HERNANDEZ (1)

)
)
)
)
)
)
)

ORDER

THIS MATTER is before the Court upon motion of the defendant pro se for a reduction of sentence based on the retroactive amendments to the United States Sentencing Guidelines relating to crack cocaine. (Doc. No. 138).

The defendant pled guilty to possessing between 5 and 15 kilograms of cocaine. (Doc. No. 63: Revised Plea Agreement at ¶ 7.a.). Although the indictment also alleged a quantity of cocaine base involved in the conspiracy, the defendant's offense level reflected only the amount of cocaine reasonably foreseeable to him. (Presentence Report at ¶ 22). The offense level for cocaine offenses was not affected by the 2007 amendments. USSG Supp. to Appx. C., Amend. 706 (2007). Accordingly, the defendant is not eligible for a sentence reduction.

IT IS, THEREFORE, ORDERED that the defendant's motion is **DENIED**.

The Clerk is directed to certify copies of this order to the defendant, the Community Defender, the United States Attorney, the United States Marshals Service, and the United States Probation Office.

Signed: April 4, 2008



Robert J. Conrad, Jr.
Chief United States District Judge

